

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

NEIDA RIVERA,	:	
Plaintiff,	:	
	:	
v.	:	No. 5:15-cv-04942
	:	
CAROLYN W. COLVIN,	:	
Commissioner of Social Security,	:	
Defendant.	:	

ORDER

AND NOW, this 22nd day of March, 2018, upon consideration¹ of Plaintiff's Complaint, ECF No. 3, Defendant's Answer, ECF No. 6, the Administrative Record, ECF No. 7, Plaintiff's Brief and Statement of Issues in Support of Request for Review, ECF No. 9, Plaintiff's Exhibits, ECF No. 11, Defendant's Response to Request for Review, ECF No. 12, Plaintiff's Reply, ECF No. 14, and the Report and Recommendation ("R&R") of United States Magistrate Judge Henry S. Perkin, ECF No. 20, **IT IS ORDERED THAT:**

¹ When neither party objects to a magistrate judge's report and recommendation, the district court is not statutorily required to review the report, under de novo or any other standard. 28 U.S.C. § 636(b)(1)(C); *Thomas v. Arn*, 474 U.S. 140, 152 (1985). Nevertheless, the United States Court of Appeals for the Third Circuit has held that it is better practice to afford some level of review to dispositive legal issues raised by the report. *Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987), *writ denied* 484 U.S. 837 (1987). "When no objections are filed, the district court need only review the record for plain error or manifest injustice." *Harper v. Sullivan*, No. 89-4272, 1991 U.S. Dist. LEXIS 2168, at *2 n.3 (E.D. Pa. Feb. 22, 1991). *See also Hill v. Barnacle*, No. 15-3815, 2016 U.S. App. LEXIS 12370, at *16-17 (3d Cir. 2016) (holding that even when objections are filed, district courts "are not required to make any separate findings or conclusions when reviewing a Magistrate Judge's recommendation de novo under 28 U.S.C. § 636(b)"); *Oldrati v. Apfel*, 33 F. Supp. 2d 397, 399 (E.D. Pa. 1998) (explaining that in the absence of a timely objection, the court should review the magistrate judge's report and recommendation for clear error). The district court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. 28 U.S.C. § 636(b)(1)(C).

1. The Report and Recommendation, ECF No. 20, is **APPROVED in part and ADOPTED in part.**²
2. The relief sought in Plaintiff's Complaint and Request for Review, ECF Nos. 3, 9, is **DENIED.**
3. The decision of the Commissioner of Social Security is **AFFIRMED.**
4. This case is **CLOSED.**

BY THE COURT:

/s/ Joseph F. Leeson, Jr.
JOSEPH F. LEESON, JR.
United States District Judge

² The first paragraph of R&R states: "[f]or the reasons that follow, it is recommended that the Plaintiff's request for relief should be denied and the decision of the Commissioner of Social Security should be affirmed." R&R 1. However, in a summary paragraph immediately before discussion of Plaintiff's individual claims, the R&R states that "the ALJ's decision is not supported by substantial evidence of record. We will, therefore, recommend that the matter be remanded for further proceedings." R&R 6. The Magistrate Judge then proceeds with a thorough and accurate analysis of Plaintiff's claims, explaining the reasons why each claim is rejected. R&R 6-13. In the conclusion section of the R&R, the Magistrate Judge states: "we find that substantial evidence exists to support the opinion and conclusions of the ALJ as to Plaintiff's alleged disability." R&R 13. The Magistrate Judge then recommends "that the relief sought by Plaintiff should be DENIED and the decision of the Commissioner of Social Security should be AFFIRMED." R&R 14 (emphasis in original).

After review, this Court finds that the statement in the summary paragraph on page six of the R&R was simply a clerical error. It is clear from the R&R, both before and after this misstatement, that the Magistrate Judge determined that the ALJ's decision is in fact supported by substantial evidence and should be affirmed. In the discussion section, the Magistrate Judge analyzes each of Plaintiff's claims and explains why they should be rejected. *See* R&R 6-13. After review, this Court finds that the Magistrate Judge's determinations are both factually and legally correct, and adopts his recommendation. Accordingly, aside from the clerical error on page six of the R&R, this Court adopts and approves the R&R.